CONSENTING TO AN EXTENSION AND RENEWAL OF THE INTERSTATE COMPACT TO CONSERVE OIL AND GAS

HEARING

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

ON

S.J. Res. 111

A JOINT RESOLUTION CONSENTING TO AN EXTENSION AND RENEWAL OF THE INTERSTATE COMPACT TO CONSERVE OIL AND GAS

NOVEMBER 12, 1981

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CONSENTING TO AN EXTENSION AND RENEWAL OF THE INTERSTATE COMPACT TO CONSERVE OIL AND GAS

THURSDAY, NOVEMBER 12, 1981

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C.

The committee met, pursuant to notice, at 10:15 a.m., in room 3110, Dirksen Office Building, Hon. Wendell H. Ford presiding.

Present: Senator Ford.

Also present: Gary Ellsworth, counsel; and Linda Mason, professional staff member for the minority.

OPENING STATEMENT OF HON. WENDELL H. FORD, A U.S. SENATOR FROM THE STATE OF KENTUCKY

Senator FORD. Good morning, ladies and gentlemen. I find I am the lucky person by coming this morning. It is unusual to see a Democrat chairing when they are not in the majority but today is a red letter day.

For the record, I am inserting the opening statement of Senator Nickles regarding Senate Joint Resolution 111, and the text of the resolution.

[The prepared statement of Senator Nickles and the text of Senate Joint Resolution 111 follow:]

STATEMENT OF HON. DON NICKLES, A U.S. SENATOR FROM THE STATE OF OKLAHOMA

Good morning. Today the Committee is holding a hearing on S.J. Res. 111, a joint resolution which I cosponsored giving the consent of Congress to the extension and renewal of the interstate compact to conserve oil and gas.

The Interstate Compact to Conserve Oil and Gas was originated by six member States and consented to by the Congress in 1935. Its membership has now grown to include 30 oil and gas producing States and six associate members states. These are:

Member States: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Montana, Nebraska, Nevada, New Mexico, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah, West Virginia and Wyoming.

Associates: Georgia, Idaho, North Carolina, Oregon, South Carolina, and Washington.

When the Compact was originally ratified, the surplus of oil and gas supplies resulted in substantial loss of oil at the surface, in wholesale flaring of gas, and other wasteful practices. The oil producing States concerned agreed on the need for some cooperative effort to deal with these problems.

The purpose of the Compact is "to conserve oil and gas by the prevention of physical waste thereof from any cause." (Article II.)

The Compact expressly states that:

"It is not the purpose of this compact to authorize the States joining herein to limit the production of oil or gas for the purpose of stabilizing or fixing the price thereof, or create or perpetuate monopoly, or to promote regimentation, but is limited to the purpose of conserving oil and gas and preventing the avoidable waste thereof within reasonable limitations." (Article V.)

The Compact binds each signatory State to enact laws to accomplish certain specified types of oil or gas waste-prevention. It also binds them to enact measures to deny access to commerce of oil produced in violation of its valid conservation statutes, and to provide stringent penalties for waste of oil or gas. Since most States already had enacted such measures prior to entering the Compact, the key substantive provision was that establishing an Interstate Oil Compact Commission composed of one member from each signatory State. Its duty was:

"To make inquiry and ascertain from time to time such methods, practices, circumstances, and conditions as may be disclosed for bringing about conservation and the prevention of physical waste of oil and gas, and at such intervals as said Commission deems beneficial it shall report its findings and recommendations to the several States for adoption or rejection."

Congress has consented to extensions of the Compact at approximately 2-year intervals from 1935 to 1976. The most recent Congressional consent expired on December 31, 1978.

I am pleased to welcome to the Committee today Mr. Andrew Bailey of the USGS Conservation Division who will testify for the Department of the Interior and especially Mr. Timothy Dowd and Mr. Richard Byrd of the Commission whose headquarters are located in Oklahoma City.

Unless there are other members of the Committee who wish to make opening statements, we will proceed with Mr. Bailey's testimony.

II

97TH CONGRESS
1ST SESSION

S. J. RES. 111

Consenting to an extension and renewal of the interstate compact to conserve oil and gas.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30 (legislative day, SEPTEMBER 9), 1981

Mr. MCCLURE (for himself and Mr. JACKSON) introduced the following joint resolution; which was read twice and referred to the Committee on Energy and Natural Resources

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JOINT RESOLUTION

Consenting to an extension and renewal of the interstate compact to conserve oil and gas.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to an extension and renewal of the Interstate Compact to Conserve Oil and Gas, as amended, from January 1, 1979, until Congress withdraws its consent; that said compact was signed in its initial form in the city of Dallas, Texas, the sixteenth day of February 1935, by the representatives of Oklahoma, Texas, California, and New Mexico, and at the same time and place

was signed by the representatives, as a recommendation for approval to the Governors and legislatures of the States of Arkansas, Colorado, Illinois, Kansas, and Michigan, and which, prior to August 27, 1935, was presented to and approved by the legislatures and Governors of the States of New Mexico, Kansas, Oklahoma, Illinois, Colorado, and Texas, and which so approved by the six States last above named was deposited in the Department of State of the United States, and thereafter was consented to by the Congress in Public Resolution Numbered 64, Seventy-fourth Congress, approved August 27, 1935, for a period of two years, and thereafter was extended by the representatives of the compacting States and consented to by the Congress for successive periods, without interruption, the last extension being for the period from September 1, 1974, to December 31, 1978, consented to by Congress by Public Law Numbered 94–493, Ninety-fourth Congress, approved October 14, 1976. The agreement to amend, extend, and renew said compact effective September 1, 1971, duly executed by representatives of the States of Alabama, Alaska, Arizona, Arkansas, Colorado, Florida, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Montana, Nebraska, Nevada, New Mexico, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah, West Virginia, and Wyoming has been deposit-

ed in the Department of State of the United States, and reads as follows:

"AN AGREEMENT TO AMEND, EXTEND AND RENEW THE INTERSTATE COMPACT TO CONSERVE OIL AND GAS

"WHEREAS, on the 16th day of February, 1935, in the City of Dallas, Texas, there was executed 'An Interstate Compact to Conserve Oil and Gas' which was thereafter formally ratified and approved by the States of Oklahoma, Texas, New Mexico, Illinois, Colorado and Kansas, the original of which is now on deposit with the Department of State of the United States;

"WHEREAS, effective as of September 1, 1971, the several compacting states deem it advisable to amend said compact so as to provide that upon the giving of Congressional consent thereto in its amended form, said Compact will remain in effect until Congress withdraws such consent;

"WHEREAS, the original of said Compact as so amended will, upon execution thereof, be deposited promptly with the Department of State of the United States, a true copy of which follows:

"'AN INTERSTATE COMPACT TO CONSERVE OIL AND GAS

"'ARTICLE I

"'This agreement may become effective within any compacting state at any time as prescribed by that state, and shall become effective within those states ratifying it whenever any three of the States of Texas, Oklahoma, California, Kansas and New Mexico have ratified and Congress has given its consent. Any oil-producing state may become a party hereto as hereinafter provided.

"'ARTICLE II

"'The purpose of this compact is to conserve oil and gas by the prevention of physical waste thereof from any cause.

"'ARTICLE III

"'Each state bound hereby agrees that within a reasonable time it will enact laws, or if the laws have been enacted, then it agrees to continue the same in force, to accomplish within reasonable limits the prevention of:

"'(a) The operation of any oil well with an inefficient gas-oil ratio.

"'(b) The drowning with water of any stratum capable of producing oil or gas, or both oil and gas, in paying quantities.

"'(c) The avoidable escape into the open air or the wasteful burning of gas from a natural gas well.

"'(d) The creation of unnecessary fire hazards.

"'(e) The drilling, equipping, locating, spacing or operating of a well or wells so as to bring about physical waste of oil or gas or loss in the ultimate recovery thereof.

"'(f) The inefficient, excessive or improper use of the reservoir energy in producing any well.

"'The enumeration of the foregoing subjects shall not limit the scope of the authority of any state.

"'ARTICLE IV

"'Each state bound hereby agrees that it will, within a reasonable time, enact statutes, or if such statutes have been enacted then that it will continue the same in force, providing in effect that oil produced in violation of its valid oil and/or gas conservation statutes or any valid rule, order or regulation promulgated thereunder, shall be denied access to commerce; and providing for stringent penalties for the waste of either oil or gas.

"'ARTICLE V

"'It is not the purpose of this compact to authorize the states joining herein to limit the production of oil or gas for the purpose of stabilizing or fixing the price thereof, or create or perpetuate monopoly, or to promote regimentation, but is limited to the purpose of conserving oil and gas and preventing the avoidable waste thereof within reasonable limitations.

"'ARTICLE VI

"'Each state joining herein shall appoint one representative to a commission hereby constituted and designated as THE INTERSTATE OIL COMPACT COMMISSION, the duty of which said Commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances, and conditions as may be disclosed for bringing about conservation and the prevention of physical waste of oil and gas, and at such intervals as said Commission deems beneficial it shall report its findings and recommendations to the several states for adoption or rejection.

"'The Commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their several jurisdictions to promote the maximum ultimate recovery from the petroleum reserves of said states, and to recommend measures for the maximum ultimate recovery of oil and gas. Said Commission shall organize and adopt suitable rules and regulations for the conduct of its business.

"'No action shall be taken by the Commission except: (1) By the affirmative votes of the majority of the whole number of the compacting states represented at any meeting, and (2) by a concurring vote of a majority in interest of the compacting states at said meeting, such interest to be determined as follows: Such vote of each state shall be in the

decimal proportion fixed by the ratio of its daily average production during the preceding calendar half-year to the daily average production of the compacting states during said period.

"'ARTICLE VII

"'No state by joining herein shall become financially obligated to any other state, nor shall the breach of the terms hereof by any state subject such state to financial responsibility to the other states joining herein.

"'ARTICLE VIII

"'This compact shall continue in effect until Congress withdraws its consent. But any state joining herein may, upon sixty (60) days' notice, withdraw herefrom.

"'The representatives of the signatory states have signed this agreement in a single original which shall be deposited in the archives of the Department of State of the United States, and a duly certified copy shall be forwarded to the governor of each of the signatory states.

"'This compact shall become effective when ratified and approved as provided in Article I. Any oil-producing state may become a party hereto by affixing its signature to a counterpart to be similarly deposited, certified, and ratified.

"'Done in the City of Dallas, Texas, this sixteenth day of February, 1935.'

"WHEREAS, the said 'Interstate Compact to Conserve Oil and Gas' in its initial form has heretofore been duly renewed and extended with the consent of the Congress to September 1, 1971; and

"WHEREAS, it is desired to amend said 'Interstate Compact to Conserve Oil and Gas' effective September 1, 1971, and to renew and extend said compact as so amended:

"NOW, THEREFORE, THIS WRITING WITNESSETH:

"It is hereby agreed that effective September 1, 1971, the Compact entitled 'An Interstate Compact to Conserve Oil and Gas' executed within the City of Dallas, Texas, on the 16th day of February, 1935, and now on deposit with the Department of State of the United States, be and the same is hereby amended by amending the first paragraph of Article VIII thereof to read as follows:

> " 'This compact shall continue in effect until Congress withdraws its consent. But any state joining herein may, upon sixty (60) days' notice, withdraw herefrom.'

and that said compact as so amended be, and the same is hereby renewed and extended. This agreement shall become effective when executed, ratified and approved as provided in Article I of said compact as so amended.

"The signatory States have executed this agreement in a single original which shall be deposited in the archives of the Department of State of the United States and a duly certified copy thereof shall be forwarded to the Governor of each of the signatory States. Any oil-producing state may become a party hereto by executing a counterpart of this agreement to be similarly deposited, certified, and ratified.

"Executed by the several undersigned states, at their several state capitols, through their proper officials on the dates as shown, as duly authorized by statutes and resolutions, subject to the limitations and qualifications of the acts of the respective State Legislatures.

"THE STATE OF ALABAMA
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

"THE STATE OF ALASKA
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

"THE STATE OF ARIZONA
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

"THE STATE OF ARKANSAS
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

"THE STATE OF COLORADO
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

"THE STATE OF FLORIDA
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

"THE STATE OF ILLINOIS
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

"THE STATE OF INDIANA
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

"THE STATE OF KANSAS
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

"THE STATE OF KENTUCKY
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

"THE STATE OF LOUISIANA
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

"THE STATE OF MARYLAND
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

"THE STATE OF MICHIGAN
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

"THE STATE OF MISSISSIPPI
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

"THE STATE OF MONTANA
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

"THE STATE OF NEBRASKA
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

"THE STATE OF NEVADA
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

"THE STATE OF NEW MEXICO
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

"THE STATE OF NEW YORK
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

"THE STATE OF NORTH DAKOTA
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

"THE STATE OF OHIO
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

"THE STATE OF OKLAHOMA
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

"THE COMMONWEALTH OF PENNSYLVANIA
By ....., Governor
Dated: .....
Attest: .....
Secretary of the Commonwealth (SEAL)

"THE STATE OF SOUTH DAKOTA
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

"THE STATE OF TENNESSEE
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

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"THE STATE OF TEXAS
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

"THE STATE OF UTAH
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

"THE STATE OF WEST VIRGINIA
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

"THE STATE OF WYOMING
By ....., Governor
Dated: .....
Attest: .....
Secretary of State (SEAL)

SEC. 2. The Attorney General of the United States shall make a biennial report to Congress, for the duration of the Interstate Compact to Conserve Oil and Gas, as to whether or not the activities of the Interstate Oil Compact Commission and of the States under the provisions of such compact have been consistent with the purposes as set out in Article V of such compact.

SEC. 3. The right to alter, amend, or repeal the provisions of the first section of this joint resolution is hereby expressly reserved.

Senator FORD. The first witness is Andrew V. Bailey, Acting Chief, Conservation Division, U.S. Geological Survey, Department of the Interior.

Mr. Bailey, if you will come forward we will be glad to hear your testimony this morning.

STATEMENT OF ANDREW V. BAILEY, ACTING CHIEF, CONSERVATION DIVISION, U.S. GEOLOGICAL SURVEY, DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY EDDIE WYATT, ACTING DEPUTY DIVISION CHIEF, ONSHORE MINERALS REGULATION

Mr. BAILEY. Mr. Chairman, I have with me this morning, Eddie Wyatt, Acting Deputy Division Chief, Onshore Minerals Regulation, Conservation Division, U.S. Geological Survey.

I am pleased to have the opportunity to appear before the committee representing the Department of the Interior in support of Senate Joint Resolution 111, a proposal to renew and extend the interstate compact to conserve oil and gas.

At the time of its inception, the compact faced major problems. The organization has worked effectively toward solving each of these problems by providing a forum for discussion of subjects relating to oil and gas conservation, it has been of particular assistance to the Department of the Interior.

In this era of new federalism, there is growing emphasis on the role of the States. The Interstate Oil Compact Commission has a history of coordinating interstate and Federal projects and is already contributing to the efforts to allow for greater Federal-State cooperation.

In the mid-1960's the Geological Survey and several Western States, under the auspices of the IOCC, began to work on standardizing reports required of oil and gas lessees and operators by both the Federal and State governments. We now intend to pursue these early efforts to assist in relieving the paperwork burden on industry.

In March and June of 1981, Geological Survey employees met with representatives of the IOCC to begin discussions with the States regarding the establishment of a program to monitor production from the well to the refinery.

This fall we held preliminary discussions with several States, with support of the Commission, to establish a cooperative program to conduct joint oil and gas field inspections, to conform certain field inspection reporting forms, and to exchange production data.

As a result of meetings we held with Wyoming State officials through the IOCC, we are conducting joint Federal/State audits in that State. Other such agreements are being developed with the State of New Mexico and possibly additional States in the future.

In conclusion, we favor the committee's approval of Senate Joint Resolution 111 to renew the compact's charter.

Thank you.

Senator FORD. What results will be obtained if you establish a program to monitor production from the well to the refinery?

Mr. BAILEY. We will be able to monitor the chain of custody from the well all the way to the refinery and to better track the oil to be sure we are collecting all the royalties due. This will help us to

identify the ownership of the oil at all points from the lease to the refinery.

Senator FORD. You have some problems that you are not knowledgeable of all the oil and the grades and age, whether it is old oil or new oil as it relates to getting royalties?

Mr. BAILEY. When the oil leaves a lease, it is turned over to someone else. We do not have a paper trail as to where it goes, since we cannot currently track it beyond the lease.

Senator FORD. Who is the someone else it is turned over to?

Mr. WYATT. The custody transfer of the production normally occurs at the leasehold. What we would like to do in establishing the ability to track the crude oil to the refinery is to be able to check back and see that all the oil that left the lease was in fact reported to us, to check the purchase by refiners or other entities, and to check where that crude oil came from. That information would be a benefit to us.

Senator FORD. You are going to be using the States to be your monitor to insure that your report is relatively accurate?

Mr. BAILEY. It is going to be a joint effort.

Senator FORD. You will enlarge your ability by bringing the States in and having an exchange of information?

Mr. BAILEY. Yes, sir.

Senator FORD. Will this exchange of information b between States as well as the Federal Government?

Mr. BAILEY. Yes.

Senator FORD. How long have you been working to establish a program to monitor the production from well to refinery?

Mr. BAILEY. We began our program early this year. We had meetings in March and June with some of the States and the Interstate Compact Commission. We had more meetings this fall. We are continuing discussions with the States now.

Senator FORD. Mr. Bailey, is there anything else you would like to add?

Mr. BAILEY. No, sir.

Senator FORD. I appreciate your being here this morning and I thank you for your testimony and your colleague also.

Next will be those representing the chairman of the Interstate Oil Compact Commission, Gov. Bruce King of New Mexico, Richard C. Byrd, general counsel, and Mr. Byrd will be accompanied by W. Timothy Dowd, executive director, Interstate Oil Compact Commission.

I served with Governor King when I was Governor from 1971 through 1974. I know Bruce very well. The only thing I dislike about him is the fact that you have the richest horse race in the world in New Mexico and I think we should change that a little bit. We have the most famous one in Kentucky, maybe not the richest.

You may proceed with any statement you have for Governor King.

STATEMENT OF GOV. BRUCE KING, CHAIRMAN, INTERSTATE OIL COMPACT COMMISSION, PRESENTED BY RICHARD C. BYRD, GENERAL COUNSEL; ACCOMPANIED BY W. TIMOTHY DOWD, EXECUTIVE DIRECTOR

Mr. BYRD. Thank you, Mr. Chairman.

The Governor has prepared a statement that is very brief and if I may, I would like to read it.

Senator FORD. Certainly.

Mr. BYRD. Mr. Chairman, it is my privilege during 1981 to serve as chairman of the Interstate Oil Compact Commission which is the operating arm of the interstate compact to conserve oil and gas.

Senate Joint Resolution 111 proposes to extend congressional approval of this compact. Let me give you some details as to what the compact does, how it is funded, and the specific nature of the extension which we seek.

The Interstate Oil Compact Commission is an organization of 30 oil- and gas-producing States which has as its purpose the conservation of oil and gas by the prevention of physical waste thereof from any cause. This is taken from article II of the charter which was executed in 1935.

The member States are engaged in an effort to produce in an orderly manner all of the hydrocarbons possible consistent with sound environmental and economic practices.

The member States of the compact produce in excess of 99 percent of the oil and gas produced in the onshore United States.

The organization maintains a headquarters office in Oklahoma City, Okla., with a staff of six.

The IOCC is totally funded by the contributions of its member States. It receives no funds from the petroleum industry for its support and no funds from the Federal Government, with the exception of two small cooperative agreements which it has had with the Environmental Protection Agency and the U.S. Geological Survey, respectively.

The Governors of the compacting States are the voting members and serve as chairmen of the standing committees. The Governors also designate alternates to act as their representatives in the event of their absence. The bulk of these alternates are State employees or regulatory officials.

This compact was formed in 1935 and has received the periodic approval of Congress since that time. I am informed it is the only compact which receives such periodic approval.

For this reason and because an organization that has been in existence for 46 years is no longer experimental, the Governors agreed in 1971 to amend the original charter by providing that the compact will continue in effect until Congress withdraws its consent.

We have requested that Senate Joint Resolution 111 contain this language and that it be adopted in this fashion.

Perhaps it would be helpful if I provided an outline of some of the activities of the IOCC as it goes about its day-to-day work of assisting the States and in some cases the Federal Government.

The IOCC meets semiannually to provide a forum to the member States, Federal agencies, and other interested parties on developments which will have an impact on the exploration and production of oil and gas. These developments may be technical, economic, or political and the impact may be favorable or adverse. These semiannual meetings also give the Governors and representatives an opportunity to express their opinions as to policy issues facing the States and the Nation.

The IOCC acts as a clearinghouse for information relating to oil and gas development and production. We annually publish such matters as a census of all of the stripper oil wells in the United States, a report of legal developments such as administrative rulings, legislation, or court cases which impact on oil and gas production, and an annual report of production statistics, State by State.

We also assist various State agencies that face problems relating to oil and gas production. These agencies might include the Governors, the oil and gas regulatory agencies, the tax-collecting agencies, or the land commissions.

We conduct training seminars for personnel, particularly relating to the protection of fresh water overlying oil and gas production

We collect data on reserves of tar sands and heavy oil.

We are commencing to collect data on the amount of oil production which is attributable to secondary recovery processes and tertiary recovery processes.

This is only a partial sampling of the compact's wares but it is designed to give this committee a grasp of how the purposes of the interstate compact to conserve oil and gas are being met.

In conclusion, I regret that I am unable to be present today but I have asked the general counsel of the IOCC, Mr. Byrd of Ottawa, Kans., and the executive director, Mr. Dowd of Oklahoma City to make themselves available to answer any questions which any member of the committee may have.

If there is any documentary information which you require, we look forward to supplying it.

That concludes the Governor's statement, Mr. Chairman. We would be glad to answer any questions.

Senator FORD. You asked if there is any documentary information we might require; I do not know that we require it but I certainly would like to have it.

Do you have a list of the stripper wells?

Mr. BYRD. Yes, sir, we will direct that to your attention.

Senator FORD. You said you collect data on reserves of tar sands and heavy oil. Do you have a breakdown on reserves between the east and west?

Mr. DOWD. Senator, we are in the infant stages of updating a report we did in 1962 which was a cooperative effort between the Geological Survey and the IOCC.

We have not gotten far enough into it even to talk about it except to mention to you that among the members of the advisory committee is Mr. Noger with Kentucky Geological Survey and we are very well aware that your State has some substantial tar sands and heavy oil deposits.

Senator FORD. I discussed with the Canadian folks their tar sands production. They now have 195,000 barrels of oil a day from their tar sands production at a cost of about $20 a barrel allowing it to go to the market price.

The Government with their input has now been paid off and it is the private venture that produces it. It is about 30 percent of their imports. It is a significant contribution to the Canadian Government.

We are looking at all possibilities to become energy independent.

Is there any kind of data that you have? If you are updating from 1962, that is almost 20 years.

Mr. DOWD. Senator, let me go back and see what we can find on tar sands, particularly from your part of the world and I will send it to you.

Senator FORD. We had a hard time with Mr. Watt when he was here; he did not understand there was anything east of the Mississippi. I wanted to know if he considered east of the Mississippi and he finally admitted there was such a part of the country. We do have some possibilities.

Mr. Warren was my appointment when I was Governor to the compact.

Mr. DOWD. Yes; he still is.

Senator FORD. He is very interested and he keeps me up to date.

I understand the language Governor King as chairman has requested be in existence until such time as Congress thinks it should eliminate it.

What would be the effect on States if Senate Joint Resolution 111 was not passed by Congress? What could the States not do that they do now if it was not extended by Congress?

Mr. BYRD. Mr. Chairman, I think most legal scholars now agree that probably this compact is the type of compact that would not necessarily under the Constitution require consent of Congress. We do nothing that affects the Federal structure, its political structure.

Our charter itself says we will obtain congressional consent. The effect of not getting it would necessitate our amending our charter to take the provision out. When the States join and become members, they do it with the assumption we are going to obtain the consent of the Congress. We would have to amend the charter and then go back to each State.

Most of the States would have to go back and reratify the charter and pass new State legislation to ratify joining the compact without congressional consent.

It could be done but it would be quite burdensome.

Mr. DOWD. Senator, just to prove that we really do know about the eastern part of the United States, the Interstate Mining Compact Commission which is headquartered in Lexington was patterned after ours in structure. They learned from our mistakes and have obtained one congressional approval which goes until Congress should decide to withdraw its consent.

Senator FORD. I did not doubt that you knew.

What you are saying then is that the bylaws of the compact have a portion which says it must have the approval of Congress and that the States join subject to the approval of Congress and maybe some legislation.

It would seem to me that would be simple to do since most States, and I suspect most members of the compact, would probably be in favor of not having to come up here if it does not benefit the Commission.

Mr. BYRD. I think it is a benefit. My answer was limited to the effect. I think it is very beneficial to the compact to have congressional consent for the reason that I feel certain we get better liaison and working relationships with USGS and FERC and the other Federal agencies.

I feel it is to our advantage and my advantage in trying to keep the activities within the scope of the compact when I can point out to committees of the compact, we are going to be back before Congress one of these days and if you go off on these tangents, it raises questions as to whether or not we are operating within our charter and raises questions as to whether we will be able to obtain consent.

I use it as a tool to try to keep the direction of the compact in conformity with its purpose. I think it is very beneficial in that respect.

The Justice Department has sat in on all of our meetings until recently with one or two representatives. I think it is a healthy relationship.

Senator FORD. Is the Federal Trade Commission involved?

Mr. BYRD. They have never sent a liaison to our meetings.

Senator FORD. There will probably be some questions and probably the question I asked Mr. Bailey about the monitoring from the well to the refinery may be important to some of our colleagues who are not present today.

The possibility of additional questions to you and Mr. Bailey are probable.

Do you have anything else you would like to put into the record this morning, I would be glad to hear it.

Mr. BYRD. Nothing further.

Senator FORD. I appreciate your coming. Send our regards to Governor King. Keep up the good work and we will try not to do anything to create more problems for you than you already have.

Thank you, gentlemen. We are adjourned.

[Whereupon, at 10:40 a.m., the committee adjourned.]

APPENDIX

Additional Material Submitted for the Record

JS
ISSUE
Indian Affairs/Oil/Gas etc.

Dear Sir:

The Senate Select Committee on Indian Affairs is conducting an investigation of the Federal government's handling of oil production on Indian lands and public domain and acquired lands. This investigation was instigated by allegations of outright theft on the Wind River Indian Reservation in Wyoming.

After three hearings and study of information received by committee staff it appears that some improvements must be made in the Federal government's participation in approving and monitoring oil leases and the collection and distribution of royalties derived from these leases to private industry.

Since the States participate in the royalties collected (50% from public domain lands and 40% from acquired lands) we are certain you are concerned about these reports of thefts and mismanagement. Therefore, we would appreciate your thoughts on this matter.

Specifically, we would appreciate answers to the following:

1) Any information concerning theft from oil leases. If so, was the incident reported? To whom? Was any action taken?
2) Do you receive the States' share of the royalty payments in a timely fashion? Are you satisfied with information received in support of such payments?
3) Suggestions for better State/Federal cooperation in monitoring oil production on public lands.
4) Legislation - Is any needed either State of Federal?
5) Are "reclaimers" required to be registered? If so, could you furnish a list of those registered?
6) Any other information which would be of assistance to the Committee in the conduct of this investigation.

Your cooperation and assistance will be greatly appreciated.

Sincerely,

William S. Cohen
Chairman

John Melcher
Ranking Minority Member

WSC/JM/ja:wj

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OFFICE OF
Oil and Gas Conservation Commission
STATE OF ARIZONA
1645 WEST JEFFERSON, SUITE 420
PHOENIX, ARIZONA 85007
PHONE: (602) 255-5161

August 27, 1981

United States Senate
Select Committee on Indian Affairs
Washington, D.C. 20510

Gentlemen:

This is to acknowledge receipt of your letter dated July 13, 1981 and addressed to Governor Bruce Babbitt. This letter eventually ended up with the Oil and Gas Conservation Commission for reply.

Please be advised that in Arizona at the present time the only oil and gas being produced in the state is produced on the Navajo Indian Reservation. Consequently, this state does not receive a share of the royalty payments, nor does this Commission have any direct regulatory authority on this production.

The regulatory authority is in the hands and under the direction of the United States Geological Survey. The local survey office which handles this production is located in Farmington, New Mexico. You may wish to contact them for detailed answers to your specific questions.

If we may be of further service in this connection, please advise.

Sincerely,

A. K. Boss
Executive Director

AKD/vb

cc - Governor Bruce Babbitt

STATE OF ARKANSAS
OFFICE OF THE GOVERNOR

FRANK WHITE
GOVERNOR

September 8, 1981

The Honorable William S. Cohen
Chairman
Select Committee on Indian Affairs
United States Senate
Washington, D. C. 20510

Dear Senator Cohen:

With regard to your letter of July 13, please be advised that Arkansas has no Indian lands. However, I will attempt to answer your questions with regard to oil leases.

Specifically:

(1) We have no information concerning theft of oil from any leases in Arkansas.

(2) The Miscellaneous Tax Section of the Department of Finance and Administration receives the state's share of the royalty payments.

(3) We control or monitor all oil production in Arkansas. These records are public information.

(4) I do not know of any needed legislation.

(5) I do not know who or what a "reclaimer" is, but we do have people who clean oil field tanks. We control their operation but they are not registered.

(6) I know of no other information that would be of assistance to the Committee on Indian lands.

If I can be of further assistance to your committee, please feel free to write or call.

Sincerely,

Frank White

FRANK WHITE
Governor

FW/JM/tjh

cc: The Honorable John Melcher

EDMUND G. BROWN JR.
GOVERNOR

OFFICE OF
PLANNING AND RESEARCH

State of California

GOVERNOR'S OFFICE
OFFICE OF AMERICAN INDIAN COORDINATOR
1400 TENTH STREET
SACRAMENTO 95814
916-322-4811

September 25, 1981

Honorable William S. Cohen
Honorable John Melcher
Select Committee on Indian Affairs
United States Senate
Washington, D.C. 20510

Dear Senators:

I have been asked to respond to your letter to Governor Brown regarding the federal government's oil and gas lease collection and distribution of royalties on Indian and public domain lands. Please accept my apologies for the delayed response.

As you know, the State of California has filed suit in the United States District Court for the District of Columbia against Interior Secretary James Watt concerning this issue. Our Office has contacted Mr. Jim Wolf of the Bureau of Indian Affairs' Sacramento Area Office and he stated that no oil or gas leases exist on California Indian reservations; however, applications for gas leases have been filed at three reservations.

In light of the pending litigation, your other specific questions regarding public domain and acquired lands could best be answered by either State Controller Ken Cory, Deputy Attorney General Jan Stevens, or Washington D.C. attorney Alan S. Novins.

Should you need any additional information or assistance in this matter, please contact us again.

Sincerely,

Rachel A. Bluestone

Rachel A. Bluestone
American Indian Coordinator

cc: Kenneth Cory
State Controller
State Capitol, Room 1114
Sacramento, California 95814

Jan Stevens
Deputy Attorney General
Department of Justice
555 Capitol Mall, Suite 350
Sacramento, California 95814

Alan S. Novins
Lobel, Novins, and Lamont
1523 L Street, N.W., Suite 200
Washington, D.C. 20005

STATE OF KANSAS

OFFICE OF THE GOVERNOR
State Capitol
Topeka 66612

John Carlin *Governor*

August 28, 1981

The Honorable William S. Cohen, Chairman
Select Committee on Indian Affairs
United States Senate
Washington, DC 20510

Dear Senator Cohen:

In response to your letter of July 13, 1981, concerning the investigation by the Senate Select Committee on Indian Affairs on the Federal government's handling of oil production on Indian lands and public domain and acquired lands, I have reviewed the status of such oil production in Kansas.

To the best of our knowledge, no production occurs on Indian lands in the State of Kansas; consequently, there are no problems with monitoring oil leases or the collection and distribution of royalties. However, there is production on private land near Indian land, and there may be leasing and production activities on Indian land in the future.

No theft from oil leases on public domain or acquired lands has been reported. The State of Kansas receives its share of the royalty payments forty-five to seventy days after the end of the production period. The information received in support of the payments appears adequate.

At present, I have no suggestions for better State/Federal cooperation in monitoring oil production on public lands, nor do I see the need for legislation.

The State of Kansas does not require registration using the terminology "reclaimers".

If you have further questions, I suggest you contact Gene Lovel or Lyle Goltz at the Kansas Energy Office, 214 West Sixth Street, Topeka, Kansas 66603-3793. They may be reached by telephone at (913)296-2496.

Sincerely,

JOHN CARLIN
Governor

JC:JEK:ag
cc: The Honorable John Melcher

DAVID C. TREEN
GOVERNOR

State of Louisiana
EXECUTIVE DEPARTMENT
Baton Rouge

July 27, 1981

The Honorable William S. Cohen
Chairman
The Honorable John Melcher
Ranking Minority Member
United States Senate
Select Committee on Indian Affairs
Washington, D. C. 20510

Dear Senators Cohen and Melcher:

Thank you for your letter of July 13, 1981 requesting responses to a number of questions concerning theft of oil production from public lands.

I have asked my Commissioner of Conservation, Ray Sutton, who represents me at meetings of the Interstate Oil Compact Commission, to respond to your question. At Secretary Watt's request the I.O.C.C. is working on this problem.

With warm regard, I am

Sincerely,

Dave Treen

David C. Treen

DCT:maw

cc: Ray Sutton
Commissioner of Conservation

REC'D AUG 1 8 '81

STATE OF NEW MEXICO
OFFICE OF THE GOVERNOR
SANTA FE
87503

BRUCE KING
GOVERNOR

August 7, 1981.

The Honorable William S. Cohen, Chairman
The Honorable John Melcher, Ranking Minority Member
United States Senate
Select Committee on Indian Affairs
Washington, D.C. 20510

Dear Senators:

This letter is in response to your letter of July 13, 1981 in which you requested information concerning the Federal Government's monitoring of oil production from public lands. As you are aware, this issue is of great importance to us in New Mexico where approximately 26,150,000 acres or 33.6% of the land area is public domain. During 1979 alone, oil production from public lands in New Mexico was 25 million barrels and represented 32% of the entire state's production. During the last year, New Mexico's share of federal mineral leasing revenues from all sources amounted to $108 million. We consider these revenues extremely important in supporting public schools and in otherwise mitigating the adverse effects of mineral development.

I have been following with interest the recent developments concerning this subject and I appreciate the opportunity to comment. Concerning your specific questions, I offer the following responses:

(1) Reported Oil Thefts - To my knowledge, there has been only one documented case of oil theft in New Mexico. The case involved alleged thefts by oil servicing firms in Lea County and was uncovered by a private investigator hired by two oil companies. The case was reported to the local district attorney and is currently being prosecuted under the state's larceny statutes. In addition, the Oil Conservation Division of the Energy and Minerals Department is currently studying the case for possible violations of laws and regulations within its jurisdiction.

The total magnitude of the oil theft problem in New Mexico is not known. State and local officials are currently investigating several other incidents of possible oil thefts. However, limited budgets and manpower make it extremely difficult to investigate

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and prosecute complex crimes which may occur in remote and unpopulated areas of the Permian and San Juan Basins. Industry representatives, testifying before state legislative committees, have stated that the amount of losses from oil theft in New Mexico may total millions of dollars per year.

(2) State's Royalty Payments - This has been a lingering problem over the past few years which remains unresolved. New Mexico's share of federal mineral leasing revenues is received in the form of a check issued by the Bureau of Land Management. Usually, we receive no information whatsoever in support of the payment; nor upon further inquiry can we obtain any relevant information. Upon request, BLM has furnished us with information relating to the portion of the payment representing bonuses versus that portion representing royalties; and has provided a breakdown of what portion of the payment represents what minerals, i.e., sulfur, coal, and oil and gas. (Oil and gas are not separated but are given in a single category). However, we have found it impossible to obtain any production detail concerning the payments.

We have also attempted to obtain the necessary supporting information from the USGS. However, we have found that we cannot consistently get adequate information from the USGS and what production detail we have obtained almost never coincides with the payment received.

(3) State/Federal Cooperation - We feel strongly that the state and federal governments need to enter into a relationship whereby a successful monitoring procedure can be established. At a minimum, we would like detailed production data for federal leases to accompany federal mineral leasing payments. This would enable us to cross check the federal data with our own production figures so that any discrepancies could be ultimately resolved. It would also be beneficial if both the state and the U.S. Department of the Interior would designate a specific contact person for issues relating to production from public lands. Joint state-federal investigations of alleged oil thefts is another area where a cooperative effort would be useful.

(4) Necessary State or Federal Legislation - Existing federal legislation on this subject appears to be adequate. However, I believe that procedures which implement the legislation need to be radically changed. For example, accounting procedures currently required by the USGS in reporting royalties are apparently quite

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different from those used by oil companies themselves or those required by states and other large royalty owners. Implementation of consistent accounting procedures would greatly facilitate auditing and would help to ensure correct audit results. Other beneficial changes which could be implemented by the Federal Government include changing the procedure by which audit decisions are made, initiation of a penalty for late or deficient royalty payments, and immediate institution of an accounting and auditing procedure whereby state and tribal governments can be assured that they have been, and will be, receiving their adequate share of federal royalties.

Another alternative which we feel should be considered by your committee is legislation or new procedures whereby the collection of federal royalties becomes the responsibility of the states rather than the Federal Government. I am confident that, with minimum staff time and expense, the state could collect federal royalties in the same manner which it collects state taxes and royalties, cross-check the figures with other production data and remit a monthly check to the Department of the Interior. The Interstate Oil Compact Commission, on which I have the opportunity to serve as its present chairman, recently adopted this position at its midyear meeting in Casper, Wyoming. A copy of the IOCC resolution addressing this issue is attached for your information.

On the state level, the state recently enacted Laws 1981, Chapter 257 which prohibits the possession or transportation of crude oil without possessing specific documentation substantiating the person's right to be in possession of the oil. It is our feeling that this law, while not directly addressing oil thefts, will act as a deterrent to transporting stolen crude oil and will facilitate investigations of alleged thefts. A copy of this law is enclosed for your information.

(5) Registration of Reclaimers - New Mexico does not currently require reclaimers to be registered. However, certain activities of reclaimers are regulated so as to prevent waste and ensure that environmental standards are met. In addition, reclaimers must post a performance bond and file monthly reports with the Oil Conservation Division.

Thank you again for the opportunity to comment. If you desire any further information, please do not hesitate to contact me.

Sincerely,

Bruce King

BRUCE KING
Governor

Encl.

RESOLUTION ON MINERAL ACCOUNTING

WHEREAS, the Public Lands Committee of the Interstate Oil Compact Commission has considered the problems involved in supervision by the Department of the Interior of the production of mineral resources on public and Indian lands at its meeting in Casper, Wyoming, on June 29, 1981; and

WHEREAS, as the report by that Committee demonstrates, the problems of Interior supervision of such resources have seriously complicated the actions of the affected states in preventing physical waste of oil and gas and insuring its conservation, which are the primary goals of this Compact; and

WHEREAS, that Committee also reports that the inadequacies of Interior administration have deprived member states of the share of federal mineral leasing proceeds which has been wisely granted them by Congress to compensate for the added governmental responsibilities placed on them by the existence of the public lands within their borders; and

WHEREAS, the Committee has requested that the IOCC support the efforts of member states to insure adequate supervision of federal mineral leasing operations, both to prevent waste and to insure collection of those revenues due;

NOW, THEREFORE, BE IT RESOLVED that the Interstate Oil Compact Commission urges that the United States Department of Interior accelerate its efforts to correct the existing administrative problems, and that it consider possible utilization of the state conservation agencies on a formal, compensated contract basis, to undertake direct administration of prevention of waste and collection of revenues on the public lands.

BE IT FURTHER RESOLVED that the Executive Director is hereby instructed to furnish a duly certified copy of this resolution to the President of the United States and to the Secretary of the Department of Interior.

The Legislature

of the

State of New Mexico

35TH Legislature, 1ST Session

LAWS 1981

CHAPTER 257

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR

HOUSE BILL 517

WITH EMERGENCY CLAUSE

Introduced by

GREAT SEAL OF THE STATE OF NEW MEXICO 1912

EMERGENCY CLAUSE

CHAPTER 257

AN ACT

RELATING TO LARCENY OF SPECIFIC PRODUCTS; PROHIBITING POSSESSION OR TRANSPORT OF SUCH PRODUCTS WITHOUT DOCUMENTATION; ESTABLISHING PENALTIES; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. LEGISLATIVE FINDING.--The legislature finds that thefts of crude petroleum oil are a significant problem in this state, and that due to the fungible nature of the product and difficulty of identification and apprehension, extraordinary measures are necessary.

Section 2. DOCUMENTATION REQUIRED.--

A. Any person in possession of crude petroleum oil or any sediment, water or brine produced in association with the production of oil or gas or both for transportation by motor vehicle from or to storage, disposal, processing or refining must also possess specific documentation required by regulation of the oil conservation division of the energy and minerals department, hereinafter in this act called "division", which substantiates his right to be in possession of the estimated volume of crude petroleum oil carried in that vehicle. The regulation shall require the documentation to include:

(1) the identity of the operator and the location of the lease from which the crude petroleum oil or any sediment, water or brine produced in association with the production of oil or gas or both, if it is purportedly being transported from a lease; and

(2) the identity of the operator of and the location

HJCS/HOUSE BILL 517
Approved April 8, 1981

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of the storage facility from which or to which the crude petroleum oil or any sediment, water or brine produced in association with the production of oil or gas or both is being transported; and

(3) the identity of the operator of and the location of the disposal, processing or refining facility to which the crude petroleum oil or any sediment, water or brine produced in association with the production of oil or gas or both is being transported; and

(4) the estimated percentage of crude petroleum oil in the sediment, water or brine produced in association with the production of oil or gas or both, which is being transported; or

(5) the volume of crude petroleum oil being transported; and

(6) any additional information the division finds necessary or convenient.

B. Any person who stores, processes, disposes of or refines any volume of crude petroleum oil must possess specific documentation as prescribed by regulation of the division which substantiates his right to be in possession of the volume of crude petroleum oil he possesses or in possession of an amount of crude petroleum oil which could reasonably justify the amount of processed or refined products produced by him from crude petroleum oil, and in his possession or sold by him.

Section 3. PENALTY--FURTHER INVESTIGATION.--Any person who is found within any geographical area of the state designated by regulation of the division as a crude petroleum oil producing area, in

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possession of crude petroleum oil, sediment, water or brine produced in association with the production of oil or gas or both, which contains crude petroleum oil, and does not, on a reasonable request of any state police officer or other law enforcement officer as defined in Section 29-7-9 NMSA 1978, produce the required documentation for examination and inspection is guilty of a misdemeanor. If the documentation is produced but differs substantially from the load the transporter is carrying, or differs substantially from crude petroleum oil or processed or refined products produced by him from crude petroleum oil, and in his possession or sold by him, it shall be substantial evidence supporting further investigation by such officer or agent of possible theft of crude petroleum oil.

Section 4. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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STATE OF UTAH
OFFICE OF THE GOVERNOR
SALT LAKE CITY
84114

SCOTT M. MATHESON
GOVERNOR

October 5, 1981

Senator William S. Cohen, Chairman, and
Senator John Melcher, Ranking Minority Member
United States Senate
Select Committee on Indian Affairs
Washington, D.C. 20510

Gentlemen:

The people of Utah are also concerned with allegations of thefts and understatement of oil and gas production referred to in your letter of July 13, 1981. Theft from oil leases is very difficult to detect inasmuch as wells are usually located in remote areas. Mr. Cleon B. Feight, Director of our Division of Oil, Gas and Mining, advises us that his office has never received a report concerning a theft of oil from an oil lease, and our only knowledge of these thefts has been obtained from the news media reporting on statements made by employees of federal agencies. We are concerned about these reports of thefts and understatements and we are making an investigation to determine the need for additional state involvement in an audit program in connection with oil and gas production. Therefore, we are interested in helping with your investigation in any way we can.

Your next question deals with remittance to our state for its share of royalty payments from the Bureau of Land Management. These payments are received approximately forty-five days after the close of each six-month period, together with a voucher and a schedule listing our counties with amounts credited to each. We receive no other supporting information. This system can be improved by the Bureau of Land Management also enclosing a listing of each company or person to which property is leased together with sufficient information so the amount due the state may be computed. This would enable the states to cross check reports to the federal government with production reports, which in turn may be cross checked with purchaser reports. Those which fail to pay a royalty and those having noticeable decreases in the amount of production could be investigated.

Legislation likely should be enacted which will assure better controls and enable joint State/Federal cooperative monitoring. These could include:

1) Copies of production reports to be furnished state and federal agencies.

2) Require copies of purchase reports of oil and gas to be furnished both state and federal agencies which show the operator of the well and purchase information.

3) Provide that transportors of oil and gas furnish to both state and federal agencies a copy of an order from the well operator to move the product.

4) Enact a royalty withholding on leased state and federal properties to assure payment and provide for monthly remittance.

The last question contained in your letter is easy to answer inasmuch as Utah has only three registered reclaimers with the Department of Natural Resources. These are:

1) Refiners:
   Eko Tek Lub, Inc.
   Golden Eagle Refiners, Inc.

2) Reclaimers:
   Intermountain Oil Company

We believe an exchange of information program could be established between the states and federal agencies to inform each other of police action taken and reports on findings, inasmuch as those committing violations on federal leases will likely also be violating on state lands. In addition, we believe that the state and federal governments have a common interest to protect in assuring our citizens that our laws are enforced equitably and that each citizen benefits from natural resources extracted from within our boarders.

Sincerely,

Scott Matheson

Governor

SMM:dld

WYOMING
EXECUTIVE DEPARTMENT
CHEYENNE

ED HERSCHLER
GOVERNOR

July 21, 1981

United States Senate
Select Committee on Indian Affairs
Washington, D. C. 20510

Attention: Senator William S. Cohen, Chairman
Senator John Melcher, Ranking Minority Member

Dear Senators:

I appreciate very much the opportunity which your letter of July 13, 1981 affords me to comment on the problems being experienced by the Federal Government in its receiving and accounting for royalties on oil produced from Indian lands, the public domain, and acquired lands.

The State of Wyoming receives very substantial royalties from oil production on its own trust and acquired lands, and is experiencing on a smaller scale the same problems as is the Federal Government. A free and full exchange of information between the State and Federal agencies involved, will help us both improve the ways in which we are now trying to cope with the problems. I answer your specific questions as follows:

1. There are occasional reports of theft of both oil and of oil field equipment, such as pipe and other supplies from oil leases. There have been a few successful prosecutions for theft of equipment. I believe there has been at least one incident in which there has been a guilty plea in a prosecution for theft of oil from the Wind River Indian Reservation. I am sure the Department of the Interior has more specific information on this matter than the State agencies do. Such incidents are reported to the County Sheriff in the county in which the theft occurs. The prosecution would be handled by the County Attorney. Perhaps establishment of a central reporting agency would be beneficial. Our State Criminal Investigation Division might be able to serve as a central agency.

A lessee usually reports any substantial theft of equipment. The lessee is much less likely to report a theft of oil. If the theft is by the lessee, the reason is obvious.. Sometimes the lessee doesn't know, or isn't sure there has been a theft. Even when the lessee knows, he may be reluctant to report a theft of oil. He knows his chances of recovering the oil range from slim to none. He may be required to pay royalty on the stolen oil,

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thus increasing his loss. Since the possibility of gain is almost non-existent and the possibility of loss almost certain, the lessee has little incentive to report. He simply suffers in silence and hopes his lessor won't find out and demand payment of royalty on the stolen oil. In short, it is difficult for the lessor to even detect that there has been a theft of oil - much less how much and by whom. Good accounting and auditing procedures are the best protection a lessor can have.

2. The State Treasurer, Mrs. Shirley Wittler, receives payment of the State's share of the Federal royalty payments. She advises me that in the past the State has not received timely payments, but that this problem has been worked out with the Department of the Interior and the State expects to receive timely payments in the future. Information received in support of such payments has in the past been very sketchy and unsatisfactory, but she advises that progress in working this problem out is also being made. We hope that when the next payment is received adequate support information will also be given.

3. I am advised by the State Auditor, Mr. James Griffith, and the State Commissioner of Public Lands, Mr. Oscar Swan, that they have met with representatives of the United States Geological Survey to discuss means of securing better State and Federal cooperation in monitoring oil production on public lands. They advise me that they sense a spirit of cooperation from the Federal agencies which has, unfortunately, been somewhat lacking in the past. Steps are being taken to set up means by which there can be a full exchange of information between the State and the Federal agencies. There has also been discussion of the possibility of standardizing the forms on which production and other information is reported. Such standardization could greatly facilitate the exchange of information. On behalf of the State, they have also suggested that the Wyoming Oil and Gas Conservation Commission, the State Auditor, or the Wyoming Department of Revenue might undertake to perform on a contract basis some of the monitoring duties of the Federal agencies.

Mr. Swan who also sits ex officio as a Member of the Wyoming Oil and Gas Conservation Commission, advises me that the Commission does secure limited cooperation from the United States Geological Survey in carrying out the State Agency's duty to regulate drilling, development, and production, and to keep records of the source and quantity of all oil and gas produced in the State. It receives no cooperation or assistance whatsoever from the Indian tribes on the Wind River Indian Reservation. This lack of cooperation was one of the factors which made it a little easier for the thefts on the Reservation to be made and to go undetected as long as they did.

As an example of the limited cooperation of the United States Geological Survey, in matters being considered by the Wyoming Oil and Gas Conservation Commission which involve private, State, and Federal lands, the United States Geological Survey consistently refuses to appear and present testimony under oath in the same manner as witnesses for other parties affected by the decision. This is due in large part to an unwieldy bureaucracy which limits local authority and requires that every public statement must be cleared through Washington and approved by the persons who know the least about the problems. It is also in part the result of the arrogant federal attitude not unique to the U.S.G.S. that it really doesn't have to pay any attention to the State regulatory agency if it doesn't want to. Whatever the cause, as long as the attitude continues, it will continue to hamper the efforts of both federal and state agencies to monitor oil production adequately and both will suffer. In summary, the cooperation between the State and Federal agencies charged with monitoring oil production on the Federal, public domain, and acquired lands, could be substantially improved. Cooperation between the State Agency and Indian Tribes is non-existent. This is not because the State is unwilling to cooperate. It is because the Indians refuse completely, and the U.S.G.S. is hampered by policies and procedures which unduly limit its cooperation.

4. There is need for both State and Federal legislation. The Federal regulations require adequate reports from the producer of oil or gas from Federal and Indian lands. The State law and regulations require similar reports on all lands. The present State and Federal laws should be expanded to allow the State regulatory agency to require reports from the producer and each person to whom the custody of the oil is transferred, to and including the refiner (or reclaimer) showing the origin and quantity of the oil, its destination, and the persons from whom and to whom its custody was transferred by the person making the report.

State legislation alone would be an incomplete solution because too much oil is moved to refineries in states other than the state of origin.

Federal legislation alone would also be an incomplete solution. The U.S.G.S. is only concerned with theft of oil produced from Federal and Indian lands. The State is concerned with the theft of any oil.

5. "Reclaimers" are not required to be registered. This is another matter which I hope our State Legislature will consider. Perhaps Federal legislation on this point would also be beneficial. At least the Federal legislation already suggested should be

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broad enough so that reclaimers and other refiners would be required to file reports with the State of origin on oil received by them.

6. Both Mr. Griffith and Mr. Swan advise me that from their discussions with the United States Geological Survey they are satisfied that the agency cannot improve its present performance very much without a substantial increase in the number of employees. The State agencies have the same problem. It requires the appropriation of sufficient funds as a start. Simply making the funds available, however, won't solve the problem. Our State Legislature last February authorized Mr. Griffith to employ three auditors to carry out auditing of production of oil, gas and minerals from both State and Federal lands. He started his recruiting efforts immediately, and has continued them diligently. He still has not been able to employ all the people he needs. There is a real shortage of qualified personnel. A cooperative effort and elimination of duplication would not completely eliminate competition between the State and Federal agencies for qualified employees, but it should reduce it.

Making the funds available so that personnel can be employed may create a demand for training which our schools or universities will recognize and attempt to meet, but this will be a time-consuming process. Perhaps the State and Federal governments should either set up a training program, or subsidize such programs in established schools and universities.

I sincerely appreciate this opportunity to express my views. I assure you that you will have my personal cooperation, the cooperation of the other state officials I have named, and of any other state official who can be of assistance to you.

Yours very truly,

Ed Herschler, Governor
State of Wyoming

EH:OES/as

P. S. Gentlemen: Enclosed is some additional information supplied to me by Mrs. Shirley Wittler, Wyoming State Treasurer.

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THE STATE OF WYOMING

RECEIVED
JUL 20 '81
GOVERNOR'S OFFICE

Wyoming State Treasurer

STATE CAPITOL BUILDING CHEYENNE, WYOMING 82002

SHIRLEY WITTLER
STATE TREASURER

EARL W. KABEISEMAN
DEPUTY STATE TREASURER

July 17, 1981

TO: Governor Ed Herschler

FROM: Shirley Wittler, State Treasurer

RE: Inquiry from Senate Select Committee on Indian Affairs, Senators William S. Cohen and John Melcher

Land Commissioner Oscar Swan has asked me to respond to you about the question concerning receipt of the State's share of royalty payments:

2) Do you receive the State's share of the royalty payments in a timely fashion? Are you satisfied with information received in support of such payments?

My answer to both questions at this time is a qualified yes. As recently as April of this year, my answer would have been no.

I have been trying for five years to obtain wire transfer of the funds, in preference to priority mail delivery of a federal warrant. Last fall I arranged for our own bank courier to pick up the warrant in Washington, armed with a power of attorney prepared by the Attorney General. The warrant was deposited on the same day with the Maryland Federal Reserve Bank for immediate credit to the State. As a result, Department of Interior offered to initiate wire transfer as long as we wire Social Security payments to Treasury in return (which we do). Our most recent payment, on May 11, 1981, was a historic first, made by wire transfer for instant credit.

My concern over the scanty information provided stemmed from my inability to identify bonus payments, which our statutes single out for a different distribution than royalty payments.

Since a telephone conversation with Interior Department Representative Eddie R. Wyatt, on May 19, 1981, prompted by contact with former State Geologist Dan Miller, we have been able to obtain some of the information we have sought unsuccessfully for several years. We now have a Denver and a Cheyenne contact where we can seek additional detail. I enclose a copy of a memorandum summarizing that contact.

We are still unable to totally reconcile the royalty payments with the production records obtained from U.S.G.S. and the Wyoming Petroleum Association.

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We hope to obtain enough information in the future to reach that capability.

I am unable to respond to any of the other questions raised by the Select Committee, and trust that Mr. Swan, and perhaps State Auditor Jim Griffith can be helpful.

cc: Oscar Swan
Commissioner of Public Lands

Enc: Letter and Background Information

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

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Honorable Peter Mulvaney
Deputy Attorney General
State of Wyoming
Cheyenne, Wyoming 82002

Dear Mr. Mulvaney:

We are pleased to respond to your recent discussion with Dan Miller concerning the State of Wyoming's need for assistance in establishing and maintaining an effective program for auditing mineral production and revenue. This program is intended to enhance the State's ability to account properly for the various receipts accruing from mineral leasing and production within the State, i.e., State severance tax, royalty from State leases, and the State's share in the mineral receipts derived from Federal lands in Wyoming.

As you know, we are convinced that there are a number of areas where the adoption and implementation of cooperative procedures between the individual States and this Department would result in significant, mutual benefit. At present, we can think of no problems of more immediate, common concern than those associated with providing a greater degree of (1) security against the theft or mishandling of crude oil and (2) control over crude oil movements to ensure a proper accounting for revenues due the States, Indian lessors, and the Federal Government. Thus, we are very encouraged by the interest you have expressed in obtaining our assistance regarding this particular matter.

It is my understanding that personnel of the U.S. Geological Survey have had several discussions with Wyoming representatives in recent months concerning accounting and auditing functions and other related issues. These discussions have been of a general nature; however, it has come to my attention that, in one particular instance, the Geological Survey did provide a substantial amount of material to assist Wyoming officials in the development of a legislation proposal designed to achieve greater control over oil movements within the State. Although this legislation was not subsequently proposed, positive benefits were realized by the establishment of better communication and in the demonstration of a willingness to cooperate with one another.

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In addition to the foregoing, I am informed that a representative of the Geological Survey, as a followup to your conversation with Mr. Miller, has spoken directly with you and other State officials regarding this request for assistance, as well as other problems of concern. I was pleased to learn of the proposed plan which was formulated at that time for appropriate representatives of the State and the Geological Survey to begin substantive discussions on specific areas in which cooperation would be of joint benefit. As I understand it, you have tentatively agreed to meet in Casper, Wyoming, on July 1. Since the Interstate Oil Compact Commission's mid-year meeting is being held in Casper and will be concluding on June 30, this would appear to be a particularly appropriate date. A representative of the Geological Survey will be contacting you in the near future to confirm the time, date, and place for this initial meeting and to name its participants.

In summary, I am pleased by this initiative on your part, and the Department looks forward to working closely with Wyoming officials to assist them in establishing an effective State audit program. It is my sincere hope that this initiative will lead to the development and implementation of additional cooperative procedures between this Department, the State of Wyoming, and other interested States which are of mutual benefit.

Sincerely,

Donald Paul Hodel

Under SECRETARY

cc: Treasurer, State of Wyoming
Public Lands Commissioner,
State of Wyoming
Auditor, State of Wyoming

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Background Information

Question: How can Wyoming place itself to a position of obtaining the level of information on mineral production and royalties, necessary for the establishment of an effective audit program?

1. On 5/15/81--Talked with Oscar Swan (307-777-7331), Wyoming State Land Commissioner and his Deputy, Bob Bullock.

   Mr. Swan advised that, because of limits on his jurisdiction, it was not his concern as to the quantity and value of oil and gas produced from Federal and Indian lands in Wyoming. He also stated that:

   1. The State of Wyoming imposes a severance tax on mineral production within the State and that local entities within the State impose an ad valorem tax on real property affixed to the land.

   2. The State Treasurer has a problem in obtaining proper documentation from BLM in support of certain Federal payments received.

   3. He was dismayed by the seeming lack of concern and cooperation by industry with regard to security against theft.

   4. Legislation to promote greater control over oil movements within the State could not be enacted if it were to contain any connotations that smacked of an effort to control production rates (prorationing).

   In closing, Mr. Swan suggested that this matter be discussed further with the State Auditor (James Griffith), the State Treasurer (Shirley Wittler), and the State Attorney General's Office (Peter Mulvaney). He provided telephone numbers for those individuals. He also expressed his appreciation for the contact.

   On 5/19/81--called State Auditor James Griffith (307-777-7831). In his absence, I spoke with David Ferrari. He discussed the recent legislative authorization for the State Auditor's Office to employ additional personnel to conduct audits in relation to the proper accounting for oil and gas revenues attributable to the State. He said the program was just getting off the ground--that several studies had been completed, but were not as yet fully analyzed. Thus,

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he advised that their specific problems were not well defined at this time. He also advised that he would have Larry Biggio (Bee Joe), who is to be in charge of the audit operations, call me as soon as Mr. Biggio was back in the office. Mr. Ferrari did indicate an interest in obtaining the assistance and advice of the Geological Survey in setting up their audit program and in the possibility for an exchange of information. Perhaps greater clarification in that regard will be provided by Mr. Biggio. In closing, he thanked me for the Survey's interest in providing assistance.

3. On 5/19/81--Spoke with State Treasurer Shirley Wittler (307-777-7408). Mrs. Wittler did not express any concerns relative to the issues early discussed with Messrs. Swan and Ferrari. However, she was pleased by the Survey's interest and did raise a particular problem area involving a sister agency (BLM) and one which has been of concern to her since she assumed office. Specifically, State law requires Mrs. Wittler, in dispersing the State's share of the Federal mineral revenues, to disperse that portion related to the bonuses received for the leasing of Federal oil shale, geothermal resources, and coal in a different manner from that applicable to the remainder of such receipts. Apparently, Mrs. Wittler has been unable to obtain satisfactory documentation from BLM as to whether the receipts being received contain any such bonus receipts for these three commodities and, if so, the magnitude thereof. A review of our records, as well as pertinent statistical information routinely provided to us by BLM, shows the following:

OIL SHALE--No bonus receipts to date.
GEOTHERMAL--No bonus receipts to date.

COAL

FY	Public Domain			Acquired		
	Tracts	Acreage	Bonus	Tracts	Acreage	Bonus
1970	2	10,328	$ 348,327.00	--	--	--
1971	5	22,986	$7,404,096.50	1	160	$8,320.00
1972-79	--	--	--	--	--	--
1980	2	2,015	$ 50,375.00	--	--	--
1981 (to date)	3	9,285	$ 950,855.00	--	--	--

On 5/21/81--Spoke with Edward P. Greenberg, Chief, Division of Finance, BLM (343-6743) regarding Mrs. Wittler's concerns. Ed said he would be in Denver next week (May 26-30) and would call Mrs. Wittler in regard to this problem.

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3. On 5/19/81--Spoke with Deputy Attorney General Peter Mulvaney (307-777-7862). He confirmed his earlier conversation with Mr. Dan Miller. His concerns parallel those of the State Auditor's Office, i.e., a desire to obtain all possible assistance from the Geological Survey in establishing and maintaining an effective audit capability to assure that Wyoming is receiving a proper accounting of the receipts due it from mineral production within the State, with particular emphasis on oil and gas and coal. These receipts involve a State severance tax on all production, royalty revenues from State leases, and its share in the revenues derived from mineral-related activities on Federal lands within the State. I briefed Mr. Mulvaney on events at the recent (April 29) Interstate Oil Compact Commission (IOCC)/DOI sponsored meeting in Denver which was the initial effort at identifying joint Federal/State cooperative procedures that could be implemented for (1) providing greater security against the theft or mishandling of crude oil, and (2) enhancing control over oil movements so as to better assure that all production is accounted for and royalty paid thereon. I also advised Mr. Mulvaney that the Public Lands Committee of the IOCC intended to discuss these same issues at the IOCC's mid-year meeting in Casper the last 3 days in June. I suggested that USGS personnel meet with State officials in Casper on Thursday, July 1, to identify the means by which we might aid the State in establishing and maintaining an effective audit program as well as ways that the State could assist us in performing our duties. He was agreeable and expressed his appreciation for the call. We are to contact Mr. Mulvaney at a later date to confirm these arrangements.

Eddie K. Wyatt

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